

ATTACHMENT 5

FALLON, MYERS & MARSHALL, LLP

ATTORNEYS AT LAW

110 MAIN STREET • WARRENTON, VIRGINIA 20186

TELEPHONE: (540) 349-4633 • FACSIMILE: (540) 349-4163 • E-MAIL: staff@fmmatty.com

MERLE W. FALLON
VAUGHAN R. MYERS
NIKKI L. MARSHALL
JENNIFER R. MOORE

OF COUNSEL
RICHARD W. GROUX, JR.

October 3, 2008

VIA HAND DELIVERY

Holly Meade
Fauquier County
Department of Community Development
29 Ashby Street, Suite 310
Warrenton, VA 20186

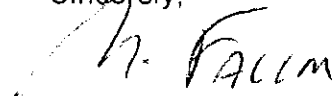
RE: Lim Property / Rezoning and Rezoning Amendment
Lim Property / Special Exceptions Submittals
Our File No. 1146-001
RESPONSES TO COMMENTS
Lim Project: REZN08-LE-007, SPEX08-LE-028,
SPEX08-LE-029, SPEX08-LE-30

Dear Ms. Meade:

Please accept this as Grace and James Lim's response to the comments received on the above referenced rezoning applications. Please understand that at the present time, the Lims have not identified any particular user for the property. Each time they explore a letter of intent with a potential user, the user backs away because the property is not zoned. Most users are simply not willing to endure the Fauquier County rezoning process for unzoned property.

We have attempted to fully and completely respond to each and every comment made by the various reviewers. Many of the responses simply acknowledge that the issue raised by the comments must be dealt with at site plan time. The Lims are well aware that each potential user will have to go through the site plan process and comply with all of the regulatory requirements in effect at that time, including conducting an additional Traffic Impact Analysis ("TIA"), in accordance with VDOT regulations. With this in mind, I provide the following comments broken down by area of comment.

Sincerely,



Merle W. Fallon, Esquire

RECEIVED

OCT - 3 2008

RESPONSES TO COMMENTS

Lim Project: REZN08-LE-007, SPEX08-LE-028,
SPEX08-LE-029, SPEX08-LE-30

Planning

COMMENT 1: Assurance needs to be provided that this development will not be entirely retail, otherwise a Comprehensive Plan amendment will be needed. This area is not intended to serve as a major focus for retail. Offices and institutional uses are also sought.

RESPONSE: *The building planned for Bubble #3 is intended to have lease spaces for six to ten individual businesses. The proffers have been amended to include a requirement that some of these spaces will be marketed for office and institutional users.*

COMMENT 2: The layout is not in conformance with the Comprehensive Plan. The buildings should have active frontage along the main street, with windows or displays.

RESPONSE: *The actual layout for users will not be determined until a site plan is filed for each use as contemplated in the Bubble Plan. The proffers have been amended to encourage this "main street" type of development, with pedestrian circulation and parking located at the rear of the stores.*

COMMENT 3: The proposed east/west road should function as the main street, with buildings located up to the street and parking located in the rear.

RESPONSE: *See above response to Comment 2. Additionally this main street will involve the existing entrance for Bowers Run Road.*

COMMENT 4: ~~The area needs to be pedestrian-oriented providing pedestrian circulation along the roads and directly to the businesses.~~

RESPONSE: *See above response to Comment 2.*

COMMENT 5: The main pedestrian entrance for all buildings shall be directly off the main street.

RESPONSE: *See above response to Comment 2.*

COMMENT 6: Details should be provided on how the applicant proposes to deal with services (i.e., utilities, deliveries, etc.).

RESPONSE: *These details will be provided at site plan time.*

COMMENT 7: Heavy landscaping will need to be provided along Route 17 and Route 28, this has not been addressed with the rezoning and special exception applications.

RESPONSE: *Details of landscaping will be provided at site plan time.*

COMMENT 8: Address Section 2-410 of the Zoning Ordinance related to public safety and the need for all proposed entrances.

RESPONSE: *Section 2-410 of the Zoning Ordinance addresses access to lots fronting on more than one street. Access to the property will be provided in two places; existing Bowers Run Road with a right in, right out, currently exists at the northeaster corner of the property. That intersection will be upgraded and improved, and the other access to the property will be offsite, at a planned intersection with a street to be built on adjoining property. This issue is addressed in the proffers.*

COMMENT 9: The Comprehensive Plan envisions this corner as part of the Bealeton Town Center. Town Center is used here conceptually rather than a specific land use designation. There are plan policies related to the Bealeton Town Center in its entirety in terms of uses and pedestrian orientation, and there are other policies dealing with the actual planned land uses at this particular site as part of this Town Center. The proposed project is in an ideal location for a creative development idea and lot layout that will benefit the residents and business owners of Bealeton in the long-run. The Comprehensive Plan states that the County is determined to provide alternative development options more consistent with traditional design.

RESPONSE: *This property consists of two lots, one of which is already zoned commercial; together the two lots comprise approximately six and half acres. The development plan is being coordinated with adjoining property owners, all of whom are planning to submit comprehensive rezonings in the not too distant future.*

COMMENT 10: Institutional-Office is the land use classification for the project. The land use plan designates this area for Institutional/ Office as shown below:

"Commercial/Office/Institutional Uses

Commercial, office and institutional uses would initially be focused on the two roads parallel to Route 17, Willow Drive to the east and Church Road to the west. Anchoring commercial and office functions on the southern end of Willow Drive is the present medical facility, which will be joined by a new County Library and Post Office. Church Road north of Route 28 would transition in character from commercial to office and institutional uses -- such as churches, fraternal organizations and civic groups. Crossing Route 17, these office-institutional uses would conclude just north of T iberty High School. "

RESPONSE: *There is no existing zoning category solely for "commercial, office and institutional uses." The C2 zoning designation allows for all of these uses. The proffers have been adjusted accordingly.*

COMMENT 11: Secondly, there are policies specific to how the Town Center development (in Introduction Section) should be realized, as follows:

"General Town Center Design Principles:

The Bealeton Town Center will be designed as a mixed-use commercial core surrounded by a mix of institutional and office uses and a mix of higher density residential uses. This Town Center will be surrounded by a well-defined edge of parks and natural areas. In addition, the Town Center will.'

- 1. Be designed in a generally rectilinear pattern of blocks and interconnecting streets and alley ways, defined by buildings, street furniture and landscaping, a place to be shared equally by pedestrians, bicyclists and cars.*
- 2. Contain a core with a mix of lively and mutually supportive commercial and civic uses, such as a library, post office, churches, volunteer and fraternal halls, and spaces, and should contain prominent civic features, such as fountains, national and local memorials, which establish and commemorate the place,*
- 3. Possess urban parks and squares distributed throughout the Town Center. An important Square and a Town Park will be located at the core of the Town Center.*
- 4. Be designed so that similar uses in the Town Center will generally front one another across local streets, while dissimilar uses will generally abut along alleys, rear property boundaries and across collector roads."*

The proposed Rezoning application (REZN08-LE-007) and Special Exception application (SPEX08LE-028, SPEX08-LE-029, and SPEX08-LE-030) projects, in their current form, may be found by the Planning Commission to be

inconsistent with the aforementioned Comprehensive Plan goals for a mix of office and institutional (to include civic uses such as non-profit, religious or public organizations) uses at this Town Center location. Discussions should continue regarding a mix of institutional, commercial and office uses, possible reduction in the amount of drive-through Special Exceptions, a commitment to high-quality regionally specific design scheme in a traditional rectangular grid pattern layout, extensive landscaping with retention of any existing mature trees, and a trail and sidewalk system. (Ideas for consideration: (1) a row of narrow row units for office, commercial and civic uses with parking in the rear, or (2) a prominently displaced institutional use or office with 25% retail shopping or restaurants at the base of the building, or (3) a nicely landscaped, public square and garden in the center or rear of a complex would look attractive and be a gathering spot for patrons.)

RESPONSE: *See responses to comments #1, #2 and #10.*

Zoning

COMMENT 12: The 1.56 acre parcel (6899-16-9374) was rezoned in 2002 from RA/Rural Agriculture to C-2/Commercial Highway, with proffers limiting certain uses on the property and addressing transportation improvements. As the proposed rezoning includes this smaller parcel, if approved both parcels will be subject to a single set of proffers. In that rezoning, the parcel was identified as containing 1.618 acres; it is not clear why the acreage has changed.

RESPONSE: *It is the intention of the owners of the property to have both parcels covered by the same zoning conditions. Hence, the 1.56 acre parcel (GPIN #6899-16-9374) is technically an amendment to the existing proffers. If this rezoning is not approved then the existing parcel will be developed as a standalone parcel with entrances right at the intersection of Routes 17 and 28, as there is no access to the existing Bowers Run Road from this property, and the only existing access for this C2 zoned parcel is from Routes 17 and 28.*

COMMENT 13: Although a concept plan is shown, it is very general in nature and, in any case, the applicant does not proffer to comply with the concept plan. The Planning Commission and Board of Supervisors should be aware that anything shown on the Concept Plan, including possible uses, has no meaning in the context of a rezoning approval.

RESPONSE: *The developers have not identified any specific users and are not capable at this point of providing a more specific concept plan. The proffers have been adjusted to reflect incorporation of the concept development plan to the extent possible.*

COMMENT 14: Access to/from the properties is proposed on both Route 17 and

Route; the proffer language presumes these multiple access points, in violation of the Zoning Ordinance. The Zoning Ordinance does not allow a parcel to take access to/from a higher standard street unless the Board approves a waiver, finding that such access is necessary to improve public safety (Section 2-410). Route 17 is an Principal Arterial street and Route 28 is a Minor Arterial, therefore no access onto Route 17 is allowed without approval of a waiver. The applicant has not requested such a waiver nor provided any analysis in support of a waiver. Staff would strongly recommend that the Planning Commission and Board of Supervisors not approve the rezoning until the applicant amends the application to address this issue.

RESPONSE: *See response to comment 8 above.*

COMMENT 15: The temporary entrance located approximately 14 feet from the side lot line violates Zoning Ordinance Section 3-504.3, which requires that an entrance be a minimum of 20 feet from a side property line.

RESPONSE: *This temporary entrance has been removed.*

COMMENT 16: Although the Concept Development Plan (CDP) submitted as part of this rezoning identifies the proposed uses as being retail shops, a bank, a pharmacy, and two drive-thru restaurants, these uses are not proffered by the Applicant and the CDP is not tied to proffers. The proffers only limit the following uses:

- a. Category 3-309 "Outdoor Recreation"
- b. Category 3-318 "Agriculture"
- c. Category 3-319 "Extraction"
- a. Category 3-320 "Public Utilities"

Therefore, if approved as proposed, a much broader range of uses will be allowed by-right, to include Motor Vehicle related uses such as a Service Station, Auto Repair, Auto Dealership, Car-wash, etc. In addition, while four "smaller" uses are shown on the concept plan, the site could be developed with a single, larger use (i.e. a 50,000 square foot retail use). The Planning Commission and Board of Supervisors should consider whether this broader range of possible uses is appropriate at this location when considering the rezoning.

RESPONSE: *The proffer limiting uses was adapted from the existing approved proffers for the corner lot currently zoned C2. All uses for the property will be subject to the limitations set forth in the zoning ordinance, as set forth in the preamble to this comment response letter. The Lims do not have users for the property indentified and potential users are not willing to hazard the rezoning process for the County therefore the uses proffered out are limited. The Lims are willing to consider removing additional uses from the property.*

COMMENT 17: The statement on page 1 of the proffers: "These proffers include

the dedication of real property and are thus subject to the conditions set forth in Virginia Code §15.2-2298(B)” does not appear to be relevant to this rezoning and should be eliminated from the proffers. If the applicant believes this is applicable in this instance, please clarify what significant dedication is proposed unrelated to requirements for this project.

RESPONSE: *The applicant is offering to dedicate right of way for Route 28 which is not necessary for the development of this property. Additionally, it is willing to dedicate to VDOT, or the County, necessary frontage for the construction of a trail that is part of the Parks and Recreation comprehensive plan. Neither of these dedications can be required by the County. Nevertheless the applicant is willing to dedicate this land, thus 15.2-2298(B) is implicated.*

COMMENT 18: The first sentence of Proffer #3 is meaningless and should be eliminated. It agrees to submission and approval of a landscaping plan, which is already required pursuant to Section 7-601.1 of the Zoning Ordinance.

RESPONSE: *This proffer is taken verbatim from the existing proffers on the C2 zoned property. We have nevertheless made the appropriate adjustment.*

COMMENT 19: The second sentence of Proffer #3 states that the “applicants shall preserve and reserve environmental features wherever possible and shall remove specimen trees only as necessary for roads, driveways and building sites.” This language is also meaningless and impossible to administer or enforce. Ideally, if there are significant environmental features or trees on the property they should be identified as this time and specific determinations made as to whether they are required to be preserved. In any case, Section 7-603.1 already limits clearing to only those areas necessary for loading, parking, streets, utilities and buildings.

RESPONSE: *See the response to comment 18 above.*

COMMENT 20: Proffer #4 is meaningless and should be eliminated. It agrees to some of the existing lighting limitations contained in Article 9 of the Zoning Ordinance.

RESPONSE: *This proffer is also taken verbatim from the existing approved proffers on the parcel currently zoned C2. The proffers have been adjusted in accordance with the comment.*

COMMENT 21: Proffer #5 is unclear about the timing and nature and actual commitments of the applicant with respect to interparcel connections and also appears to commit other landowners and the County to actions, which cannot be done by proffer. Specific issues include:

- a. The size and character of the proposed interparcel connectors is ambiguous, other than a reference to 12 foot travelways. Are the connectors to be public streets? Easements over private property? If easements, are they aisles through the parking lot, or seperated? The size of easements and necessary improvements rely on this assessment and some understanding of the nature of the improvements should be reflected in the proffers. Proffer #8 suggests the intention to provide public streets, in which case sufficient right-of-way to accommodate a public street should be provided.
- b. The language *"will construct necessary improvements therein in conjunction with other landowners"* is ambiguous. Is the applicant committing to construct all of the improvements? Or only some unspecified portion?
- b. The language *"as are deemed necessary by the County, the Applicants and VDOT"* renders the commitment meaningless. This allows the applicant to not provide improvements simply by stating they aren't necessary. Determination as to necessity should be up to County and VDOT.
- c. The language *"Funds sufficient to provide interparcel travelways..."* is ambiguous. As the preceding sentence states the access is to between Routes 28, 17 and 837, is the applicant funding construction between these points, or only on their portion of property? If only on the subject property, how will access be sufficient for the property? Nor does the language actually commit the *Applicant* to the funding.
- d. The language *"The Applicants shall dedicate right-of-way for interparcel access to adjacent properties to the southwest and northwest at the time of the first subdivision plat or final site plan"* is unclear. Is the intent to dedicate with whichever comes first, the site plan or subdivision? No lots are shown on the concept plan, so what subdivision is intended?
- e. The language *"the Applicants shall request Fauquier County to acquire necessary right-of-way and/or temporary or permanent easements through its power of eminent domain, at the Applicant's expense"* along with the following up language setting forth how the

applicant is to request County action, seems to suggest that the County is agreeing and/or somehow required to pursue eminent domain. Proffers cannot tie the County to any action. As written, if the County does not pursue acquisition, the proffers cannot be met and the project cannot move forward. This should be clarified so there is no misunderstanding.

- f. The language *“the Applicants shall construct temporary means of ingress and egress as required by VDOT”* does not establish a time requirement for such construction.

RESPONSE: *Once again, proffer #5 is taken verbatim from the existing proffers on the C2 parcel. The proffers have been rewritten to address the concerns set forth in this comment.*

COMMENT 22: Proffer #6 establishes no time-frame for dedication for acceleration and deceleration lanes along the frontage. Also, the language *“as deemed necessary by the County, the Applicant and VDOT”* gives complete authority to the applicant to decide to not dedicate regardless of County and VDOT requirements. Also, the language does not require construction of the improvements, even though these are necessary to serve the proposed project.

RESPONSE: *Once again, this proffer is taken verbatim from the existing proffers on the C2 zoned portion of the property. Nevertheless the proffers have been appropriately adjusted.*

COMMENT 23: Proffer #8 needs to be reconciled with earlier proffers regarding the size and character of inter-parcel connectors. If dedication is intended, no time-frame for dedication is committed to.

RESPONSE: *Once again, this proffer is taken verbatim from the existing proffers on the C2 zoned portion of the property. Nevertheless the proffers have been appropriately adjusted.*

COMMENT 24: Proffer #9 commits to construction of an entrance which conflicts with Zoning Ordinance requirements and should be eliminated. (See earlier comments.)

RESPONSE: *This proffer has been removed and substantially rewritten.*

Zoning—Special Exceptions

COMMENT 25: This Special Exception is being reviewed simultaneously with REZN08-LE-007, SPEX08-LE-029 and SPEX08-LE-030.

RESPONSE: *Acknowledged.*

COMMENT 26: A site plan is required for this use pursuant to Zoning Ordinance Section 3-313.11.

RESPONSE: *Acknowledged.*

COMMENT 27: For drive-in windows, banks are required to have sufficient area for eight (8) stacking spaces for the first drive-in window and two (2) stacking spaces per each additional window. (Zoning Ordinance Section 7-104.7)

RESPONSE: *Acknowledged.*

COMMENT 28: The Applicant has submitted a Concept Development Plan (CDP) that allows for very little in the way of review for the proposed drive-thru as it relates to requirements of the Zoning Ordinance. How the drive-thru window will be integrated on-site with other zoning requirements such as setback requirements, landscape buffer yards and other pertinent Zoning Ordinance requirements will need to be addressed with review of the final development plans for the development. At present, staff is not able to ascertain whether the drive-thru will or will not conform to Zoning Ordinance requirements. It is noted however, that it may be difficult to fit the circulation required for three separate drive-through windows into the site, given the proposed internal street system and the multiple uses.

RESPONSE: *The applicant understands that it is difficult to review a proposed use that is currently not known with specificity. The applicant assumes two drive thru restaurants, a drive thru pharmacy and a drive thru bank, for the purpose of maximizing the potential traffic impact of the development of the property. Without identified users there is no possibility that this property will be developed within the six months immediately following the rezoning. Thus a new TIA will be needed for each site plan application that is part of the property. Each site plan for all or a portion of the property will need to conform to the site plan ordinance, as to stacking, parking areas, etc. The owners cannot acquire users until the property is zoned and cannot zone for specific uses that are known. The proffers have been adjusted to provide for public street dedication and connections where appropriate to the development.*

COMMENT 29: The following zoning ordinance standards are applicable: 5-006, General Standards

RESPONSE: *Acknowledged that these zoning ordinance standards are applicable to the special exception applications.*

Virginia Department of Transportation

COMMENT 30: Provide a diagram showing the configuration of the three entrance scenarios A, B and C.

RESPONSE: *The entrance scenarios have been changed. Therefore there is no need to provide a diagram showing the configuration of the scenarios.*

COMMENT 31: Concept Development Plan dated June 17, 2008 does not appear to be consistent with the TIA.

RESPONSE: *The TIA assumptions were agreed to after the CDP was filed. The TIA assumes a greater traffic impact than will occur on the property.*

COMMENT 32: Appendix F - Access Management Design Standards as well as 2003 Minimum Standards of Entrances to State Highways do not include provisions for "Temporary Full Access"; therefore the design criteria must meet all commercial entrance standards currently in place. For this site; access points, left turn lanes and crossover spacing must be in accordance with Road Design Manual for Rural Minor Arterial Streets.

RESPONSE: *Temporary access has been removed.*

COMMENT 33: Right-in/right-out on Route 28 is shown on the CDP, but it has not been addressed in the TIA. It was our understanding that if full access on Route 28 was provided that the right-in/right-out would not be needed.

RESPONSE: *Acknowledged.*

COMMENT 34: Page 2 indicates three Proffered Improvements which have already been proffered to be built by others. There are no Proffered improvements listed which the developer is committing to provide. The signal at Rte 17 and Independence has been proffered by both Colonial Crossing and Freedom Place. An eastbound lane on Route 28 at Route 17 is shown on the Quarles Site Plan, but has not shown on the CDP. A signal at Route 28 and Station Drive/Independence Avenue is scheduled to be installed by VDOT this year.

RESPONSE: *The proffers have been rewritten to accord with the amended plans which have been filed with the County.*

COMMENT 35: Suggested Improvements have also been indicated on Page

2, but it does not specify who is intended to complete these improvements. The developer has not even committed to doing the improvements that are being necessitated by his development such as a right turn lane into the site driveway on Route 17 and a signal at the site driveway on Route 28.

RESPONSE: *The proffers have been rewritten to require making the improvements necessitated by this development and entering into a developer's agreement pursuant to VA Code Section 15.2-2242(4) for offsite improvements that are proffered to be built by others.*

COMMENT 36: Provide a table of comparison for the existing, background and build out levels of service and queue length for each scenario A, B and C.

RESPONSE: *Since the existing scenarios have been eliminated, no response is needed.*

COMMENT 37: Provide a table of comparison showing the build out levels of service and queue lengths for scenario A, B and C for a comparison of the three alternatives.

RESPONSE: *Since the existing scenarios have been eliminated, no response is needed*

COMMENT 38: Table 2 on page 11 provides a trip generation summary for the other developments that were included in the study, but the trip generation rates for Popeyes and Quarles are not consistent with the TIA's done for those projects. Popeyes TIA did not provide any AM peak traffic as their site is not open for business.

RESPONSE: *This is a minor discrepancy which has no ultimate effect on the traffic generated by this project. New TIAs will be done as each site plan is submitted for the use of the property.*

indicates the following:

COMMENT 39: Diagram 1 shows a Suggested Improvement of a signal at Route 17 and Old Marsh Rd, but this is a proffered improvement by the Colonial Crossing project.

RESPONSE: *Acknowledged.*

COMMENT 40: Diagram 6 shows a Suggested Improvement of a 4th leg of the intersection with a signal, but this leg of the intersection is to be built by Wexford Village. The 4th leg is not needed without the proposed development. A traffic signal is already in place for the existing 3 legs of the intersection, and Wexford Village will need to signalize the 4th leg when they build their access.

RESPONSE: *Acknowledged.*

COMMENT 41: Pages 32 through 36 provide tables of the levels of service and back of queue for the build-out year with the suggested improvements for scenario A, B, and C. The intersection of Route 28 and Independence Avenue/Station Drive is showing an 857' queue for the west bound through lane even with the signal in place.

RESPONSE: *Acknowledged. Please note the scenarios have been eliminated.*

COMMENT 42: The conclusion on page 52 is indicating that all of the overall levels of service for the studied intersections are maintaining an LOS of D, but it does not indicate that individual legs of the intersections are experiencing a decrease in the level of service to E and F.

RESPONSE: *Acknowledged.*

COMMENT 43: Provide an electronic copy of the TIA with the resubmission.

RESPONSE: *An electronic copy of the TIA has already been provided, to the best of our knowledge.*

COMMENT 44: The CDP and Proffer 9 are proposing a "Temporary" Full Access Entrance on Route 28 until such time as Church Street is opened. Appendix F - Access Management Design Standards as well as 2003 Minimum Standards of Entrances to State Highways do not include provisions for "Temporary Full Access"; therefore the design criteria must meet all commercial entrance standards currently in place. For this site; access points, left turn lanes and crossover spacing must be in accordance with Road Design Manual for Rural Minor Arterial Streets.

RESPONSE: *Commercial entrances are spaced exceeding the spacing required by the 2003 Minimum Standards of Entrances to State Highways. Dimensions have been provided. Please see Sheet 3. Please note the temporary full access intersection has been eliminated.*

COMMENT 45: Proffer 9 also appears to indicate that the developer will construct the road connecting their property with Church Road on the adjacent property, but it is not shown on the CDP.

RESPONSE: *The road connection has been shown on the CDP. Please see Sheet 3. The proffers have been adjusted accordingly.*

COMMENT 46: Indicate on the plan who will be responsible for maintenance of the trail.

RESPONSE: *A note indicating VDOT will be responsible for the maintenance of the trail has been added to the plans. Please see Sheet 2. The trail will be dedicated since the property is less than two miles from*

existing schools.

COMMENT 47: The Freedom Place rezoning showed Bowers Run Road at Route 17 being cul-de-saced, but this proposal is proposing to leave this access in place.

RESPONSE: *The existing access to Route 17 will be replaced by the right-in/right-out entrance to the site. A temporary entrance along the eastern property line will provide access to the site from Bowers Run Road (Route 837). A future inter-parcel connection is along the northern property line and will provide site access if/when the Freedom Place proffers are satisfied. Existing Bowers Run Road and the inter-parcel connection will not exist in combination to one another. Please see Sheet 3.*

COMMENT 48: Need to provide clarification of what is to be done at the intersection of Bowers Run Road (Route 837 not 3837). CDP is showing what appears to be two roads running parallel to each other. The access to existing Bowers Run Road from the road into the shopping center also appears to be too close to the intersection of Route 17.

RESPONSE: *See previous response to comment 47 above.*

COMMENT 49: The access to Bowers Run Road was not addressed in the TIA.

RESPONSE: *At site plan submission, the TIA will be updated as needed.*

COMMENT: Proffer 8 is indicating the internal roads for the shopping center will be dedicated and designed for state maintenance; however, shopping center roads do not generally qualify for acceptance for maintenance. CDP needs to indicate whether the roads are to be private or public.

RESPONSE 50: *The on-site roads will be classified as private. Please see*

note on Sheet 2. Note however that the “main street” through the middle of the property designed to hook Route 17 to Church Road will be constructed to VDOT standards and dedicated to public use.

COMMENT 51: If the roads are proposed to be public, the following will need to be addressed:

- a. Water and sewer need to be located outside of the pavement.
- b. Plan needs to show road width and right-of-way width in accordance with state standards.
- c. Streets will need to meet service requirements for acceptance based on the Subdivision Street Requirements Manual.

RESPONSE: *See previous response to comment 50 above. Note that VA Code Section 15.2-2259 requires VDOT and WSA to allow utilities to be located in public rights of way.*

COMMENT 52: Indicate vehicle trips per day on all roads shown on the CDP for both internal and external roads.

RESPONSE: *The ADT for the site entrances and existing roadways have been provided. Please see Sheet 3.*

COMMENT 53: Entrance spacing needs to be dimensioned to ensure that the proposed entrances are in accordance our standards. Distance to future Church Street should also be included.

RESPONSE: *Commercial entrances are spaced exceeding the spacing required by the 2003 Minimum Standards of Entrances to State Highways. Dimensions have been provided. Please see Sheet 3. Please note that construction details for the proposed entrances will be provided at site*

plan time and will conform to VDOT standards.

COMMENT 54: Improvement to Route 28 being provided on the Quarles site plan should be shown on the CDP.

RESPONSE: *This plan is a stand alone CDP for this property. There are no guarantees that the Quarles site plan improvements will be complete or even initiated by the time of development, therefore the CDP will show existing conditions for the improvements proffered by this CDP.*

COMMENT 55: All road improvements to be done by this project should be shown on the CDP.

RESPONSE: *Road improvements from this project have been provided on the CDP. Please see Sheet 3*

COMMENT 56: Road Design Manual Appendix F - Access Management Design Standards is indicating that a right turn lane on Route 17 to the proposed entrance is required, but the proffers are not indicating construction of this and the CDP does not show the turn lane.

RESPONSE: *A TIA required at the time of Site Plan submission will take into account the nature of the development, addressing tenant/occupant requirements, once they are known, at that time. If required by that TIA, a turn-lane will be provided as part of the frontage/road improvements for this plat, and will be a condition of Site Plan approval. The turn lane on Rt 17 is not shown on the CDP since it is a required Site Plan consideration as indicated by that TIA and need not be proffered by the CDP.*

COMMENT 57: Proffer 6 indicates dedication of right-of-way on Routes 17,

28 and 837, but none has been shown on the CDP.

RESPONSE: *Proposed Right of Way dedications have been shown on the CDP. Please see Sheet 3.*

COMMENT 58: Dimension width of existing right-of-way from centerline to property line on all existing state maintained roads.

RESPONSE: *Existing Right of Way dimensions have been shown. Please see Sheet 3.*

Technical Review of TIA

General Response to TIA:

The TIA provided assumed far more traffic than will actually be generated by the site. Additionally, new TIAs will be required for each site plan submitted for approval. Virginia Code Section 15.2-2222.1B provides for VDOT "comment" on rezoning approvals. The technical comments made to the TIA are not relevant to the actual development that will occur on the property, if the property is rezoned. Thus, no supplement has been made to address the technical comments of VDOT. New TIAs will be provided for each submitted site plan for use of the property.

COMMENT 59: The site trip generation in the Seeping Agreement does not agree with the trip generation used in the report, although the land uses and density are the same. The differences may be due to use of average rates versus equations or due to use of "peak hour of generator rates" versus "peak hour of adjacent street traffic". Please clarify. Further, the trips for banks have utilized the square feet as an independent variable. If the number of drive-throughs are greater than 2, then the "number of drive-through lanes" should be used, since it results in higher trip generation.

RESPONSE: *See general comment above.*

COMMENT 60: Figure 6 on page 14 shows a southbound right turn lane on Route 17 at Village Center Drive, is this proffered by the Wexford Village Developer?

RESPONSE: *See general comment above.*

COMMENT 61: TABLE 3 on page 15 should include only proffered and committed roadway improvements and not "assumed improvements". Similarly, Tables 5A, 5B and 5C and Tables 6A, 6B and 6C, should include developer proffered improvements in addition to the background improvements included in Table 3. Assumed improvements do not provide a realistic picture. The levels of service and queue lengths should be presented with the proffered and committed roadway improvements.

RESPONSE: *See general comment above.*

COMMENT 62: In Scenarios A and B, approximately 178 vehicles are projected to weave across 3 to 4 lanes of traffic on US 17, from Site Driveway # 1 to make a left turn or U-turns at the traffic light on Route 28. A weaving analysis should be performed to show that this movement can be accommodated safely and at an acceptable level of service.

RESPONSE: *See general comment above.*

COMMENT 63: The heavy vehicle percentages on US 17 and Route 28 have not been applied consistently at all intersections. Heavy vehicles on Route 17 are 15% and 4% on Route 28. Some intersections have used a 2% factor. These need to be corrected.

RESPONSE: *See general comment above.*

COMMENT 64: There seems to be some errors on the application of pass-by trips. Based on drive-way counts, the total trips to Route 28 westbound are actually 25% and not 20%, as shown in Figure 7A. Similarly, the total trips to Route 17 northbound is 25% and not 30%. These should be corrected or explained.

RESPONSE: *See general comment above.*

COMMENT 65: In the Conclusion section on page 37, the following improvements are proffered:

- Route 17/Independence Avenue signalization
- Route 28/Station Drive signalization
- An eastbound through lane on Route 28 at Route 17

All these three improvements are being made by other developers or VDOT. What improvements is the developer proffering?

RESPONSE: *See general comment above. Additionally, the proffers have been amended to specify developer improvements.*

COMMENT 66: This section also presents suggested improvements and they include:

- Route 171 Old Marsh Road signalization

- A southbound right turn lane along Route 17 at the site driveway
- A westbound through lane on Route 28 at Route 17
- Route 28/Site Driveway # 2 signalization

All these suggested improvements are probably needed due to the site and have not been proffered by the developer.

RESPONSE: *See general comment above.*

COMMENT 67: A summary table(s) should be provided that compares levels of service and queues for existing, background and total site conditions with only proffered and committed roadway improvements.

RESPONSE: *See general comment above.*

Engineering

COMMENT 68: The Engineering Department has reviewed the above referenced rezoning application sealed on June 17, 2008, by Thomas C. Pickering, P.E. The plan as submitted does not use the County's methodology for meeting the water quality requirements and must be revised prior to approval.

RESPONSE: *The responses to the following specific comments address the engineering department's concern.*

COMMENT 69: The stormwater management concept plan shall use the Occoquan Method in accordance with the Northern Virginia BMP Handbook to show the proposed water quality measures can meet the minimum 80% site coverage and 40% phosphorus removal requirements. (Fauquier County Design Standards Manual 2012 #1, 204.2 #2, and A204.2.2)

RESPONSE: *The stormwater management concept plan is revised and*

updated using the Occoquan Method in accordance with Northern Virginia BMP Handbook to show the proposed water quality measures can meet the minimum 80% site coverage and 40% phosphorus removal requirements. Water quality analysis was conducted assuming both good infiltrating soils and poor infiltrating soils. Final design of the facility will follow from Geotech Report to be provided at the time of site plan, regardless of the conditions present at that time. Please refer to Sheet 2 for BMP computations and Sheet 5 for the Conceptual BMP Plan.

COMMENT 70: Underground StormTech systems located in soils subject to seasonal high water tables will require a geotechnical analysis to determine if measures are needed to exclude groundwater from entering the facility; or install an impermeable liner with an adequate underdrain system in accordance with the Virginia Stormwater Management Handbook and manufacturer's design recommendations.

RESPONSE: *Comment acknowledged. A geotechnical analysis will be conducted during the final site plan design phase.*

COMMENT 71: A soil analysis will be required if the underground StormTech system is designed for infiltration purposes, The soil types within the subsoil profile, extending a minimum of 3 feet below the bottom of the facility, shall be identified to determine whether the infiltration rate or permeability of the soil will support the use of infiltration practices in accordance with the Virginia Stormwater Management Handbook.

RESPONSE: *See response to comment 69.*

COMMENT 72: A pretreatment measure shall be used to remove sediments or other substances from the stormwater runoff before it enters the underground StormTech system.

RESPONSE: *Isolator rows will be used as a pretreatment measure to remove sediments or other substances from the stormwater runoff before it enters the underground StormTech system.*

COMMENT 73: It does not appear that the underground StormTech system will be capable of discharging into an adequate receiving channel onsite and may require offsite channel improvements and drainage easements.

RESPONSE: *The underground StormTech system and discharging point have been revised and updated so that it discharges in to a receiving channel onsite. Any channel improvements and drainage easements will be provided, if required, and will be determined at time of site plan. Channel analysis will also be conducted during the site plan design phase.*

COMMENT 74: The "C" factor, CN, Tc and other pre-condition assumptions will be evaluated with the final construction plans based on values from the Fauquier County Design Standards Manual.

RESPONSE: *Acknowledged to the extent the DSM is consistent with state law. This information will be provided at site plan time.*

Soils

COMMENT 75: Based off of the Fauquier County Soil Survey and The Interpretive Guide to the Soils of Fauquier County, the majority of the site is rated "GOOD" (71 B) for general development potential using central water and sewer, but bedrock may be encountered between 40-60" below existing grade. The remainder of the site is rated "FAIR" (74B) to "POOR" (14B) due to issues with a high seasonal watertable, low bearing capacity, depth to bedrock, potential for shrink-swell clays, and soil map unit 14B may have hydric soil inclusions. All of the soils on the property are listed as Prime Farmland (14B is listed as Prime farmland if protected from flooding or not frequently flooded during the growing season).

RESPONSE: *Comments acknowledged. See response to comment 69 above.*

COMMENT 76: The proposed underground SWM facility is located in a soil that contains a high seasonal watertable, poor permeability with depth, low bearing capacity when wet, potential for shrink-swell clays, and is shallow to bedrock (20-40"). Be advised that the facility will have to be designed to overcome these issues.

RESPONSE: *Comments acknowledged. See response to comment 69 above.*

Parks and Recreation

COMMENT 77: The County Comprehensive Plan and recently approved Connections Plan call for improved pedestrian access in all service districts. The provided plan accommodates trails shown in the plan Bealeton Service District. At some point in the future a "pedestrian access plan" for the Bealeton Service District will be done by others and these provided trails will be a major component of that study.

RESPONSE: *Comments acknowledged. A pedestrian trail has been proposed with this submittal, to enhance community connectivity. Additionally, proposed roads within the development will have sidewalks for pedestrian access within the site and to the trail proposed along Route 28, at final design phase. This trail will be dedicated to public use. The*

proffers have been adjusted accordingly.

Water and Sanitation Authority

COMMENT 78: This project is located within the Bealeton Service District. The Authority has adequate water and sewer capacity to serve the project, provided the owner pays all associated fees and develops water and sewer infrastructure in accordance with the Authority's Operating Code and Utility Standards Manual. Some off-site infrastructure construction may be required to obtain sewer and/or water service.

RESPONSE: *Acknowledged.*

Emergency Services

COMMENT 79: Reference the Zoning request case REZN08-LE-007 for several commercial businesses at the corner of Rte 17 and Rte 28, The Department requests funding for the equipment and installation of an Opticor system at the traffic light which controls Rte 17 & Rte 28. *This* system will benefit public safety services and the public traveling through that area.

RESPONSE: *The applicant has no clue as to what the expense or involvement of this request would require. The applicant is willing to consider a minor expenditure for public safety purposes if more information is provided.*

Sheriff

COMMENT 80: As long as the applicants satisfy the requirements as set forth by Fauquier County and VDOT this request will not present a problem to the community or issues with traffic.

RESPONSE: *Acknowledged.*